

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CASEY D.,

Plaintiff,

-v-

5:23-CV-1049

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

APPEARANCES:

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SOCIAL SECURITY
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DAVID N. HURD
United States District Judge

OF COUNSEL:

JUSTIN M. GOLDSTEIN, ESQ.
MARY ELLEN GILL, ESQ.

VERNON NORWOOD, ESQ.
Special Ass't U.S. Attorney

ORDER ON REPORT & RECOMMENDATION

On August 24, 2023, plaintiff Casey D.¹ (“plaintiff”) filed this action seeking review of the final decision of defendant Commissioner of Social Security (“Commissioner”) denying his application for Supplemental Security Income (“SSI”) under the Social Security Act (the “Act”). Dkt. No. 1. Along with his complaint, plaintiff also sought leave to proceed *in forma pauperis* (“IFP Application”). Dkt. No. 3. Because plaintiff did not consent, Dkt. No. 4, the case was referred to U.S. Magistrate Judge Miroslav Lovric for a Report & Recommendation (“R&R”). *See id.*

Judge Lovric granted plaintiff’s IFP Application and set an initial briefing schedule. Dkt. No. 6. Thereafter, the Commissioner filed a certified copy of the Administrative Record, Dkt. No. 8, and the parties briefed the matter in accordance with General Order 18, which provides that an appeal taken from the Commissioner’s denial of benefits is treated as if the parties have filed cross-motions for a judgment on the pleadings, Dkt. Nos. 9, 13, 14.

On June 27, 2024, Judge Lovric recommended by R&R that plaintiff’s motion be granted, the Commissioner’s motion be denied, the Commissioner’s final decision be reversed, and that this matter be remanded for further

¹ In accordance with a May 1, 2018 memorandum issued by the Judicial Conference’s Committee on Court Administration and Case Management and adopted as local practice in this District, only the first name and last initial of plaintiff will be mentioned in this opinion.

proceedings in accordance with sentence four of 42 U.S.C. § 405(g). Dkt. No.

15.

Neither party has filed objections, and the time period in which to do so has expired. *See* Dkt. No. 15. Upon review for clear error, the R&R is accepted and will be adopted. *See* FED. R. CIV. P. 72(b).

Therefore, it is

ORDERED that

1. The Report & Recommendation (Dkt. No. 15) is ACCEPTED;
2. Plaintiff's motion is GRANTED;
3. The Commissioner's motion is DENIED;
4. The Commissioner's final decision is VACATED and REVERSED; and
5. This matter is REMANDED for further proceedings in accordance with sentence four of 42 U.S.C. § 405(g).

The Clerk of the Court is directed to terminate the pending motion, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.

Dated: July 17, 2024
Utica, New York.



David N. Hurd
U.S. District Judge